

## **Minutes of the Kansas Sentencing Commission Conference Call January 21, 2005**

The Honorable Ernest L. Johnson, Chairman, opened the Kansas Sentencing Commission conference call on January 21, 2005, at 11 a.m. Roll call was taken.

### **Participants**

Members: Honorable Ernest L. Johnson, Chairman; Paul Morrison, District Attorney, Vice Chairman; Honorable Christel Marquardt; Senator John Vratil; Senator Greta Goodwin; Representative Janice Pauls; Roger Werholtz, Secretary of Corrections; Marilyn Scafe, Kansas Parole Board; Annie Grevas, Director of Community Corrections, 28<sup>th</sup> Judicial District; Chris Mechler, Office of Judicial Administration; Rick Kittel, Board of Indigents' Defense Services; Kevin Graham, designee, Office of Attorney General; Dr. Donald Jackson, Public Member; Jaime Richardson, Public Member. Staff: Patricia Biggs, Executive Director; Julia Butler, Staff Attorney; Kunlun Chang, Research Director; Fengfang Lu, Research Analyst; Lora Moison, Research Analyst; Heidi Zimmerman, Research Analyst; Brenda Harmon, Administrative Assistant; Janice Brasher, Grant Administrator; Marty Schmiedeler, Accountant. Guest: Caryn Carter, Intern w/Representative Janice Pauls.

### **Approval of the Minutes**

The Chairman referred to the minutes of the December 17, 2004, Kansas Sentencing Commission meeting. A motion was made to approve the minutes by Mr. Roger Werholtz and seconded by Ms. Annie Grevas. The motion carried.

### **Prison Population Subcommittee**

Ms. Patricia Biggs discussed handouts received by Commission members for today's conference call. The impact statements included the Option Summary from 2000; and a Summary Analysis of the Brainstorming Concepts from the December 17, 2004 Commission meeting. Following a discussion by Commission members, a motion was made by Secretary Roger Werholtz and seconded by Mr. Kevin Graham to clarify the definition of available prison capacity. The term "available prison capacity" means prison capacity which is actually fiscally available, and not limited to the physical capacity within the borders of Kansas. The motion carried.

### **Report to the Legislature: Review Outline**

Ms. Biggs discussed a proposed Outline of the Report to the Legislature. Following a discussion by Commission members, the following modifications to the outline were decided:

- A clear statement will be made to show how prison capacity is defined, using simplified, non-statistical language wherever possible.

- Explain that the Juvenile Projections are outside the Commission's statutory obligation and this is an area where resources are being provided to other agencies.
- A clear statement will be made that population will exceed capacity within 3-4 years out. An explanation will show that most of this is being driven by the stacking effect and it is not a new phenomenon.
- No Prison Population Reduction section needed.
- Another section was added to be the last section of the Report. It will be titled "Future Directions," with particular emphasis on proportionality, rehabilitation and re-entry.

The following provides an outline of the Report:

1. Kansas Sentencing Commission Statutory Authority
2. 2003 Senate Bill 123 status
3. Kansas Department of Corrections Projections
4. Juvenile Justice Authority Projections
5. Proportionality of Kansas Sentencing Guidelines
6. Johnson County Pilot Project
7. Future Directions

Mr. Roger Werholtz discussed a tentative educational event in the planning stages that will be geared primarily for Legislators and other elected officials to look at the issues of prison population and offender re-entry. This event will be sponsored by the Council of State Governments. A motion was made by Senator Greta Goodwin and seconded by Ms. Chris Mechler to have the Sentencing Commission support and endorse this event, and to mention their support for this event in the Report to the Legislature. The motion carried.

A motion was made by the Honorable Christel Marquardt and seconded by Ms. Annie Grevas to approve the Outline for the Report to the Legislature as modified. The motion carried.

### **SB 123 Subcommittee Language Changes**

Ms. Biggs discussed four changes to the language of Senate Bill 123. They are:

- Primary/Only offense for drug possession convictions
- Attempt/Conspiracy/Solicitation be included on the included offenses
- Attempt/Conspiracy/Solicitation be excluded on the excluded offenses
- Out-of-State/Out-of-Country residents are specifically identified as being available for departure to judges who are sentencing.

This is being written up and an introduction will be presented at a committee in the near future. Ms. Biggs will be visiting with Legislators to determine what they recommend in terms of appropriate venue for introduction of these changes.

### **SB 123 Utilization Review Function**

Ms. Biggs shared information with Commission members to inform them on the progress of the Utilization Review. At the last convening of the Implementation Subcommittee it

was decided an oversight body was needed to consider the usage rate, or the utilization rate, for the various modalities of treatment within the Senate Bill 123 protocols. Since that time, Ms. Biggs has spoken with SRS and the Mental Health Consortium group, both of whom have provided similar types of utilization review services for other programs.

The SRS program relies predominantly on a pre-approval process, so it is more like managed health care or an HMO type mechanism. The Mental Health Consortium has also only addressed it from the pre-approval process. They are presently working up a proposal for us to be able to do it as a retrospective review, whereby they would give us analysis regarding how long offenders have been in treatment. They could then look at the outliers and see anyone that has been in treatment for a very long duration or for a very short duration and do some case file reviews to examine cases where treatment duration might be in question.

This is being researched as a proactive endeavor to prevent someone coming to the Commission in the future with concerns that too much has been paid for offender X. Not having any clinical background, this might be the best way to head off and manage those dollars more effectively. A figure is not yet available to show what this review function might cost, or options known on how it might be funded.

### **SB 45 “3-R” Committee Update**

Mr. Kevin Graham stated no meetings have been held since the last Commission meeting. Interviews are scheduled next week with hopes of hiring an executive director for the 3-R Committee. A report is due in February. Mr. Roger Werholtz stated the web site for this committee is now active. Their next scheduled meeting is February 4<sup>th</sup>.

### **Briefing in Bills**

Ms. Julia Butler provided a 2005 Legislative Update of House and Senate Bills. Commission members reviewed and discussed the updated listing.

### **Next Meeting**

The next Kansas Sentencing Commission meeting was scheduled for Friday, March 11th, 2005, at 1:30 p.m.

A motion was made to adjourn the conference call by the Honorable Christel Marquardt, and seconded by Mr. Kevin Graham. The motion carried, and the Chairman adjourned the call at 12:30 p.m.